

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-21 were pending in the application, of which Claims 1, 6, and 16 are independent. In the Office Action dated September 2, 2008, affirmation of a provisional election under 35 U.S.C. § 121 between Claims 1-5 and 16-21 (Group I) and Claims 6-15 (Group II); and Claims 1-5 and 16-21 were rejected under 35 U.S.C. § 102(e). Applicants hereby address the Examiner's rejections in turn.

I. Election of Claims Under 35 U.S.C. §121

In the Office Action dated September 2, 2008, the Examiner required affirmation of a provisional election under 35 U.S.C. § 121 between Claims 1-5 and 16-21 (Group I) and Claims 6-15 (Group II). In response to this, Applicants affirm the desire to provisionally elect to prosecute Group I, Claims 1-5 and 16-21, drawn to a method and data structure comprising fields having packet type, resource and command type; classified in Class 707, subclass 104.1.

II. Rejection of Claims 1-5 and 16-21 Under 35 U.S.C. § 102(e)

In the Office Action dated September 2, 2008, the Examiner rejected Claims 1-5 and 16-21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,088,374 ("David").

Applicants respectfully submit a declaration under 37 CFR 1.132 stating that David is based on Applicants' own work. Accordingly, David may not be used as prior art against the present application and Applicants respectfully request withdrawal of this rejection.

III. Conclusion

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,
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